FARAD CONTINUATION SHEET NO
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

APPEAL FROM ORDER NO. 870 OF 2005 WITH C.A.NO.1028/2005

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr.M.R. Yadav for the Appellants.

CORAM : B.H. MARLAPALLE, J.
DATED : 13/9/2005.

P.C.

1. Heard Mr. Yadav, learned counsel for the appellants.

2. The appellants have filed L.C. Suit No.3517/2005. The impugned order is dated 1.9.2005. The learned Judge declined to grant prayer for ad interim relief and granted leave under Section-80(2) of the C.P.C. to register the suit. Admittedly the respondent No.1 Corporation has not issued any notice of demolition and plaintiffs approached the Trial Court on the basis of apprehension. The suit property was initially described as admeasuring 20x33ft. consisting of ground floor and first floor,

construction of bricks masonry wall and A.C.Sheets roof situated on Chimbai Koliwada, Carter road, Bandra (West), Mumbai,. After plaint was allowed to be amended, the plaintiffs sought to add census no. of the suit property. The learned Judge of the Trial Court noted that unless the suit property was identified, an order of protection by way of ad interim relief cannot be granted. No fault can be found with the reasonings given by the trial court to decline to pass an order of ad interim relief, unless the property was correctly identified, giving Survey No., CTS No., House No. etc. the order of injunction so as to protect the suit property from the apprehended demolition could not have been given. Hence, there is no reason to entertain this appeal and the same must fail at the threshold. Appeal is dismissed accordingly.

3. Civil Application No..1028/2005 does not survive and accordingly, the same is disposed of.

(B.H.MARLAPALLE, J.)